

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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HOMER BROWN,

Plaintiff,

Case # 17-CV-74-FPG

v.

CORRECTION OFFICER, et al.,

Defendants.

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Plaintiff Homer Brown has submitted a letter in which he (1) requests appointment of counsel pursuant to 28 U.S.C. § 1915(e), and (2) seeks an unspecified extension of time to respond to Defendants' motion to dismiss. ECF No. 19.

As to Plaintiff's request for counsel, there is no constitutional right to appointed counsel in civil cases, although the Court may appoint counsel to assist indigent litigants pursuant to 28 U.S.C. § 1915(e). *See, e.g., Sears, Roebuck & Co. v. Charles Sears Real Estate, Inc.*, 865 F.2d 22, 23 (2d Cir. 1988). The Court must carefully consider whether to appoint counsel, because "every assignment of a volunteer lawyer deprives society of a volunteer lawyer available for a deserving cause." *Cooper v. A. Sargent Co.*, 877 F.2d 170, 172 (2d Cir. 1989). The Court must consider several factors, including whether the indigent's claims seem likely to be of substance. *See Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997); *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986).

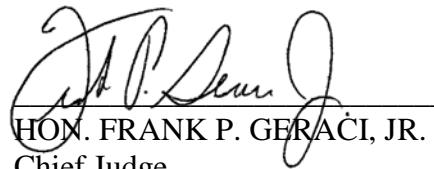
At this stage of the litigation, the Court declines to appoint counsel, because it is presently unclear whether Plaintiff's claims are likely to be of substance. Defendants filed their motion to dismiss on August 14, 2018, ECF No. 14, and Plaintiff has yet to respond. Therefore, Plaintiff's request for appointment of counsel is DENIED WITHOUT PREJUDICE.

Regarding the request for an extension of time, the Court notes that this is Plaintiff's second request to extend the time to respond to the motion to dismiss. The Court previously granted Plaintiff a thirty-day extension. *See* ECF No. 18. Plaintiff does not seek a particular period of extension.

Plaintiff's request for an extension of time is GRANTED. Plaintiff's response is now due by November 30, 2018. Defendants may file a reply within 15 days after Plaintiff's response is filed.

IT IS SO ORDERED.

Dated: October 22, 2018  
Rochester, New York



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HON. FRANK P. GERACI, JR.  
Chief Judge  
United States District Court